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Patent
Attorney Docket No. 1004501-000783

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Ralf Strumpler)	Group Art Unit: 2818
Application No.: 10/501,979)	Examiner: Thao P. Le
Filed: December 30, 2004)	Confirmation No.: 3385
For: MICRO-ELECTROMECHANICAL)	
SYSTEM AND METHOD FOR)	
PRODUCTION THEREOF)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Official Action dated January 31, 2006, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

- | | |
|----------|---|
| Group I | Claims 1-20 (drawn to a semiconductor device); and |
| Group II | Claims 21-23 (drawn to a process of making a semiconductor device). |

Accordingly, Applicant provisionally elects Group I, the subject matter of Claims 1-20, with traverse. Applicant submits that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner will search the same classes of art as is required to search the invention of the elected claims, resulting in the same references being cited against both of the aforementioned groups of claims.

Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. § 803, there are two criteria for a proper restriction requirement between patentably

distinct inventions: (1) the inventions must be independent or distinct as claimed; and
(2) there must be a **serious burden** on the Examiner if restriction is not required.

This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional restriction is hereby made without prejudice to Applicant's right to file a divisional application or applications should the restriction requirement become final.

Respectfully submitted,

BUCHANAN INGERSOLL PC

Date: February 28, 2006

By: _____


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